

Article - Health - General

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§19-345.2.

(a) In addition to the provisions of §§ 19-345 and 19-345.1 of this subtitle, a facility may not involuntarily discharge or transfer a resident unless, within 48 hours before the discharge or transfer, the facility has:

(1) Provided or obtained:

(i) A comprehensive medical assessment and evaluation of the resident, including a physical examination, that is documented in the resident's medical record;

(ii) A post discharge plan of care for the resident that is developed, if possible, with the participation of the resident's next of kin, guardian, or legal representative; and

(iii) Written documentation from the resident's attending physician indicating that the transfer or discharge is in accordance with the post discharge plan of care and is not contraindicated by the resident's medical condition; and

(2) Provided information to the resident concerning the resident's rights to make decisions concerning health care, including:

(i) The right to accept or refuse medical treatment;

(ii) The right to make an advance directive, including the right to make a living will and the right to appoint an agent to make health care decisions; and

(iii) The right to revoke an advance directive.

(b) Except as provided in subsection (c)(3) of this section, at the time of transfer or discharge, the facility shall provide the resident or the resident's next of kin, guardian, or legal representative with:

(1) A written statement of the medical assessment and evaluation and post discharge plan of care required under subsection (a) of this section;

(2) A written statement itemizing the medications currently being taken by the resident;

(3) To the extent permitted under State and federal law, at least a 3-day supply of the medications currently being taken by the resident;

(4) The information necessary to assist the resident, the resident's next of kin, or legal representative in obtaining additional prescriptions for necessary medication through consultation with the resident's treating physician; and

(5) A written statement containing the date, time, method, mode, and destination of discharge.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, a facility may not discharge or transfer a resident unless the resident is capable of and has consented in writing to the discharge or transfer.

(2) A facility may discharge or transfer a resident without obtaining the written consent of the resident if the discharge or transfer:

(i) Is in accordance with a post discharge plan of care developed under subsection (a) of this section; and

(ii) Is to a safe and secure environment where the resident will be under the care of:

1. Another licensed, certified, or registered care provider; or

2. Another person who has agreed in writing to provide a safe and secure environment.

(3) A facility that is certified as a continuing care provider under Title 10, Subtitle 4 of the Human Services Article is not subject to the provisions of subsection (b) of this section if:

(i) The facility transfers a resident to a lesser level of care within the same facility in accordance with a contractual agreement between the facility and the resident; and

(ii) The transfer is approved by the attending physician.

(d) If the requirements of §§ 19-345 and 19-345.1 of this subtitle and subsections (a) and (b) of this section have been met, the resident's next of kin or legal

representative shall cooperate and assist in the discharge planning process, including:

(1) Contacting, cooperating with, and assisting other facilities considering admitting the resident; and

(2) Cooperating with governmental agencies, including applying for medical assistance for the resident.

(e) If requested by any person during the process of transferring or discharging a resident or on its own initiative, the Office of the Attorney General may investigate whether an abuse of funds under § 19-346 of this subtitle contributed to the decision to transfer or discharge the resident and may make appropriate referrals of the matter to other government agencies.

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